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August 28, 2008

Arizona Corporation Commission
Attn: Docket Filing Window
1200 Washington Street
Phoenix, AZ 85007

Arizona Corporation Commission
DOCKETED

AUG 29 2008

Re: Docket No. E-01933A-07-0402 and E-01933A-05-0650

DOCKETED BY

Dear Sir or Madam:

Please find enclosed the original and thirteen (13) copies of the MAIN BRIEF of THE KROGER CO. in the above-referenced matter.

All parties of record have been served. Please place this document of file.

Very Truly Yours,

Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.
BOEHM, KURTZ & LOWRY

MLKkew
Attachments

CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by regular U.S. mail (unless otherwise noted), this 28th day of August, 2008 on the parties listed on the attached service list.



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**BEFORE THE
ARIZONA CORPORATION COMMISSION**

Mike Gleason, Chairman
William A. Mundell
Jeff Hatch-Miller
Kristin K. Mayes
Gary Pierce

In the Matter of the Filing by Tucson Electric Power Company to Amend Decision No. 62103) Docket No. E-01933A-05-0650
)

In the Matter of the Application of Tucson Electric Power Company for the Establishment of Just and Reasonable Rates and Charges Designed to Realize A Reasonable Rate of Return on the Fair Value of Its Operations Throughout the State of Arizona) Docket No. E-01933A-07-0402
)

BRIEF OF THE KROGER CO.

Kroger fully supports the Settlement Agreement. The Settlement Agreement strikes a fair balance between the interests of TEP and its customers and contains other beneficial details such as appropriately designed Time of Use rates ("TOU")

In participating in this Case, Kroger was particularly interested in the design of TOU rates for commercial customers. Kroger believes that it is important that such rates are designed in order to send the signal to customers that energy usage during peak times puts a great strain on the system as a whole, which drives costs to all customers. TOU rates should be designed to send these price signals and perhaps provide an incentive to customers for curtailing load during peak times.

Kroger believes that the design of the TOU schedules for commercial customers contained in the Agreement achieves these goals. The design of the TOU rates in this case provides customers the right incentive to use utility resources more efficiently by allowing customers to save on power costs by shedding load during

peak times. The resultant decreased usage during peak times benefits all customers because when customers put less pressure on the system it alleviates the need to build or purchase additional, expensive capacity.

Kroger recommends that the Commission approve the Settlement Agreement.



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